

**CITY OF MILPITAS
UNAPPROVED**

PLANNING COMMISSION MINUTES

August 11, 2004

**I.
PLEDGE OF
ALLEGIANCE**

Chair Lalwani called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Lalwani, Garcia, Giordano and Sandhu
Absent: Galang and Mohsin
Staff: Carrington, Cuciz, Heyden and King

**III
PUBLIC FORUM**

Chair Lalwani invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Julie Cherry, 2312 Lacey Drive, is with the Milpitas Alliance for the Arts. She stated that she is present to support Adage School of Performing Arts. Adage was recently notified of a 75% increase in their rent in their current space. They now have more than two hundred students enrolled in their programs and are outgrowing their current space. Adage is considering moving to a new location to accommodate their growth and would like to lease a site at 458 South Hillview Drive. They applied for a zoning variance and were informed that the area is not zoned for dance studios. Only two areas are zoned for this use in Milpitas - their current building and their competitor, Jensen's School for the Performing Arts. They prefer to be located in a different area from Jensens. They were also informed that if their facility use was noted as an athletic facility that they could occupy the site at 458 South Hillview. However, they are not an athletic facility, they are a dance studio. The Alliance for the Arts is supportive of cultural activities and would like the City to respect and support the development of new dance opportunities by reviewing their zoning definitions. Ms. Cherry is requesting that the City consider how a dance studio and athletic studio are functionally different. From their point of view, this use has similar parking requirements, clientele and business hours as an athletic facility. Ms. Cherry asked the commission to consider putting this on the agenda for the next meeting to consider the zoning for the space so that they can sign a lease and move in. She stated that this is a wonderful organization and a majority of their clientele are Milpitas residents. If they can get into this new space, they can grow and open up more opportunities to Milpitas residents.

**IV.
APPROVAL OF MINUTES
July 28, 2004**

Chair Lalwani called for approval of the minutes of the Planning Commission meeting of July 28, 2004.

There were no changes from staff.

Motion to approve the minutes.

M/S: Giordano/Sandhu

AYES: 4

NOES: 0

**V.
ANNOUNCEMENTS**

Tambri Heyden, Acting Planning and Neighborhood Services Director, announced that there will be a presentation on the Draft Streetscape Design for Main and Abel Streets on August 18th at 6:00 p.m. at the Cracolice building.

Commissioner Giordano asked how this meeting was advertised. Ms. Heyden stated that notices were sent to all businesses in the area and nearby neighborhoods.

Commissioner Sandhu extended an invitation on behalf of the SIKH Foundation of Milpitas. He noted that everyone present and those listening at home are welcome to attend the Milpitas Cultural Night, which will be held on August 21, 2004, at the Milpitas Community Center.

Commissioner Giordano noted that the commissioners had received copies of the City Council agenda and minutes and would like this process to continue.

**VI.
APPROVAL OF
AGENDA**

Chair Lalwani called for approval of the agenda.

There were no changes from staff.

Motion to approve the agenda.

M/S: Giordano/Sandhu

AYES: 4

NOES: 0

**VII.
CONSENT CALENDAR
Consent Item Nos. 2 and 3**

Chair Lalwani opened the public hearing on Consent Item Nos. 2 and 3.

Ms. Heyden noted that on item number two, there were changes to two conditions and the applicant agreed with the changes.

There were no speakers from the audience.

Vice Chair Garcia requested to take item 4 off of the consent calendar.

Close Public Hearing

Motion to close the public hearing on Consent Item Nos. 2 and 3.

M/S: Giordano/Sandhu

AYES: 4

NOES: 0

Motion to approve the consent calendar on Consent Item Nos. 2 and 3.

***2 MAJOR TENTATIVE PARCEL MAP NO. MA2004-1:** A request for a major tentative parcel map to convert one industrial building to five (5) condominium ownerships located at 601 Vista Way (APN: 086-29-069), zoned Heavy Industrial (M2). Applicant: Mahesh Patel. Project Planner: Kim Duncan, (408) 586-3283. (PJ# 3175) *(Recommendation: Approval with Conditions)*

***3 GENERAL PLAN CONFORMANCE FOR THE VACATION OF PUBLIC RIGHT-OF-WAY (WELLER LANE AND WINSOR STREET):** A request for the vacations of the southern portion of East Weller Lane and the northern portion of Winsor Avenue to accommodate the future library on North Main Street. Project Planner: Staci Pereira, (408) 586-3278. *(Recommendation: Find the partial vacations of Weller Lane and Winsor Street are in conformance with the General Plan)*

M/S: Giordano/Sandhu

AYES: 4

NOES: 0

**VIII.
PUBLIC HEARING**

1. USE PERMIT NO. UP2004-15: A request to operate an auto rental agency at Calaveras Square shopping center, at 148 West Calaveras Boulevard (APN: 022-24-037), zoned General Commercial (C2). Applicant: Avis Rent-A-Car. Project Planner: Troy Fujimoto, (408) 586-3287. (PJ#2376) *(Recommendation: Approval with Conditions)*

Dennis Carrington, Senior Planner, presented Use Permit No. UP2004-15, a request to operate an auto rental agency at Calaveras Square shopping center. Mr. Carrington recommended approval with conditions on the project that would limit the number of parking spaces to seven to accommodate two employees and five rental cars. An analysis of parking was made during peak times by the applicant and the finding was that 15% of parking was used.

Chair Lalwani asked if the applicant would like to make a presentation.

Diane Gibson and Chester Hunter, Applicants for Avis Rent-A-Car, were present. Mr. Hunter stated that they did some studies and noted that many of their clients are from Milpitas who then have to go to one of the Avis locations in Fremont, Santa Clara or the San Jose airport. They rent to large agencies in Milpitas such as Cisco and KLA who rent cars on a long-term basis. He stated that they can be a great partner with the City of Milpitas. With the noted conditions, they will be keeping autos to a minimum and will not have any mechanical work handled at this location.

Chair Lalwani opened the public hearing.

David Souza, business owner at 101 Serra Way, and **Lynn Pham**, business owner at 103 Serra Way, addressed the commission. Mr. Souza stated that he has a business there and manages the building and his parents own the building. He stated his concern that this is not an appropriate location for a rental car company and that this type of business is typically found in an industrial area and other areas with additional parking and facilities. He does not believe that they can operate a business successfully with only seven cars maximum including those for employees. He stated that this is a situation where they start with a few cars and he is afraid it will expand over time. He is worried about a parking problem for the businesses and noted that Fire trucks park there as well. He stated that Avis' usage will be much more than their proportionate share of the rent and their share for maintenance. He spoke with two other rental agencies in town, they admitted that at times they have twenty cars and do not know where to park them. The other rental agencies specialize in weekend rentals and insurance collision repair replacements. He thinks there will be more of a problem with Avis because they typically do weekday rentals. He stated that Avis approached him two months ago wanting to know if he would rent space to them and he said no.

Commissioner Giordano stated that Mr. Souza made some good points and asked how many square feet his business uses, as well as the size of the entire building. Mr. Souza stated that he leases 1,050 square feet and the entire building is 4,000 square feet. Commissioner Giordano noted that the Avis would be leasing 1,050 square feet.

Commissioner Giordano asked how many parking spaces are allocated to his business. Mr. Souza stated that he did not know. Ms. Pham stated that all of the spaces are shared and all members of the complex can park within these spaces. Ms. Pham stated that the business owners are paying for the cost of parking maintenance, while Avis will receive the benefit of the use. Mr. Souza stated the spaces are striped but they are not designated for any particular business.

Commissioner Giordano stated that they could research to ensure that there is adequate parking. She asked how many spaces they use. Ms. Pham stated that it varies and Postal Stop and Farmers Insurance are next to her business. She noted that Postal Stop has several clients throughout the day and her clients have to park in the back. Mr. Souza stated that his business typically uses five spaces, in addition, there could be up to three more spaces used.

Commissioner Giordano noted that the use of seven parking spaces for 1,050 square feet sounds excessive and she asked staff if this is the typical ratio. Mr. Carrington stated that the typical ratio for 1,000 sq. ft. is up to three spaces (or about one space per 300 square feet.) Commissioner Giordano noted that they would typically be assigned three spaces, so seven is a push for 1,050 square feet. Ms. Heyden noted that there could be differences between what actually happens at a particular location versus what is required by the code. Mr. Carrington added that condition number three states that they shall not use more than seven parking spaces at any time. If they do use more than seven spaces, the City would begin enforcement against them. Commissioner Giordano asked how the City would know if they violated this condition. Mr. Carrington stated that someone would complain. At that point, the City would either get them to comply or begin revocation of their permit. Mr. Souza stated his concern that once a business has started, it is going to be within their nature to expand, not downsize. He believes that once they are in business, it would be a difficult process to deal with them if they are out of compliance.

Commissioner Giordano asked Ms. Pham how long her business has operated there. Ms. Pham stated since 1987.

**Close Public Hearing
Agenda Item No. 1**

Motion to close the public hearing.

M/S: Giordano/Sandhu

AYES: 4

NOES: 0

Commissioner Sandhu asked the applicant if they would have trucks or vans at this location. The applicant noted that they may have passenger vans that hold eight people.

Vice Chair Garcia noted that the usual allowed parking for 1,000 sq. ft. is around three spaces and this is obviously going to be more. He stated that he is assuming that the study showing 15% usage at peak time was a factor in staff's decision to allow this use. He asked staff how many of the parking spaces are allocated to this building. Mr. Carrington stated that parking is not allocated by building, there is a minimum required by square foot and the usage is considered as well. This would vary over time as to parking required for a particular building. Typically if there is sufficient parking overall in the center and someone requests more parking, then there is research into the current parking situation. He noted that Troy Fujimoto, Associate Planner, verified that there are always spaces available at this center and due to this, staff has no problem recommending approval of this use permit.

Commissioner Sandhu commented that sometime ago, another agency approached the City about opening a rental facility near Calaveras and Dempsey Road. The Planning Commission approved this, but he does not know if the business opened yet. He believes this is a good business for the City and residents will support this proposal.

Commissioner Giordano stated that she cannot support the proposal this evening. She believes that the parking would be excessive. She noted that there are only five rental cars for the business, which doesn't make sense in terms of operating a business. She leases cars at Enterprise on Main Street and they have much more than five rental cars. Something does not make sense and the only way to rationalize this is to look at 1,000 square feet for business purposes where the allocation is three spaces and if a business exceeds this, it's not going to work so she stated she would be voting against the project.

Ms. Heyden noted a point to think about since the business owners have raised a valid question and to avoid being in a code enforcement mode. The center has many spaces that are not used and the survey was probably pretty accurate. The larger issue is where people are actually parking. The Planning Commission could have a prohibition against parking, storing or displaying rental cars in front of tenant space so that they have to park away from the building where there are lots of spaces that are not being used.

Mr. Carrington suggested that a condition be applied that would read "The applicant shall not park rental vehicles in front of tenant spaces". The Commission agreed.

Commissioner Giordano asked if there is any space that is not being leased. She noted the discussions about extra spaces and this could be relative to the vacant office space. Ms. Pham stated that there are unrented offices and that is why there are so many spaces. Commissioner Giordano noted if this is approved, then spaces are essentially being borrowed from a future tenant and she does not want to see this happen.

Motion to approve Use Permit No. UP2004-15, with all the special conditions noted in the staff report including the added condition suggested above.

M/S: Sandhu/Garcia

AYES: 3

NOES: 1 (Giordano)

**IX.
NEW BUSINESS**

Under New Business, Ms. Heyden stated that **Blair King, Assistant City Manager**, is present to answer any questions from the commission.

4. GENERAL PLAN CONFORMANCE FOR THE SALE OF CITY OF MILPITAS PROPERTY TO THE MILPITAS REDEVELOPMENT

AGENCY: A request for a General Plan conformance finding for the sale of eight (8) City of Milpitas properties located within the Redevelopment Project Area One to the Milpitas Redevelopment Agency. Staff Contact: Blair King, (408) 586-3060.

(Recommendation: Find that the disposition and continued public use of the subject properties are in conformance with the General Plan)

Vice Chair Garcia noted that this item is in conformance with the General Plan and he does not have an issue with this. He asked about the staff report and why the City is doing this and if it is budgeted as part of the bond issue dollars.

Mr. King responded that bond proceeds would not be used for this transaction, so therefore it was not put in the bond. He noted that the Redevelopment plan was amended; this gave the Redevelopment Agency (RDA) a larger financial capacity and more flexibility. The plan was amended in order to pursue economic development goals, construct public facilities and also to assist the city in terms of its' General Fund. One of the reasons is for management purposes in order to have the RDA acquire property for control purposes and financial reasons. The Redevelopment plan allows the RDA to acquire land. There are some legal mechanisms that allow for the RDA and its' special tax increment money to be moved into the General Fund and one way is through this transaction. In terms of budgeting, the city's General Fund budget did anticipate that at least \$6.1 million dollars would be placed within the budget during fiscal year 2004-2005 in this transaction. He stated some of the facts about the sale that they will be presenting to the City Council. The value represented is slightly over \$20 million, which primarily will be carried as a note. Prior to June 30, 2005, \$6.1 million will be transferred to the General Fund. The rest will be callable and that will allow for cushion in the future if the General Fund should need it and if the RDA has the assets available.

Motion to approve the Major Tentative Parcel Map No. MA2004-1.

M/S: Garcia/Sandhu

AYES: 4

NOES: 0

**X.
ADJOURNMENT**

There being no further business, the meeting was adjourned at 7:33 p.m. to the next regular meeting of August 25, 2004.

Respectfully Submitted,

Tambri Heyden
Acting Planning and Neighborhood
Services Director

Holly Cuciz
Recording Secretary